



COMMONS REGISTRATION ACT 1965

Reference No. 206/R/9

COMMON LAND (RECTIFICATION OF REGISTERS) ACT 1989

In the Matter of land at Little Wheal Speed, part of
Common Land at Halsetown, St. Ives

DECISION

REFERENCE

This reference relates to an Objection under the Common Land (Rectification of Registers) Act, 1989 to the registration of part of the land registered at Entry Nos 1-4 in the Land Section of Register Unit No. CL.296 in the Register of Common Land maintained by the Cornwall County Council.

NOTICE OF OBJECTION

The reference is occasioned by a Notice of Objection dated 4th September 1991 made by John Victor Whittington numbered OB12 and referred to a Commons Commissioner on 27th November 1991.

OBJECTION LAND

The land to which the Objection relates consists of the part of the Register Unit edged in red on the plan attached to the Objection ("the Objection land").

ENTRIES ON REGISTER

The land was registered as common land upon the application of St. Ives Borough Council. The registration being undisputed became final subject to modifications on 16th July 1973. There are no entries in the Rights Section of the Register.

In the Ownership Section of the Register Archibald Kitchen is registered as owner of part of the land comprised in the Register Unit.

An ownership inquiry was held before a Commons Commissioner at Camborne on 23rd November 1982 to inquire into the question of the ownership of the residue of the Register unit. The Commissioner in his Decision dated 14th December 1982 stated that he was not satisfied that any person was the owner of the land and it therefore remained subject to protection under Section 9 of the Act of 1965.

EVIDENCE IN SUPPORT

Statutory Declarations in support of the Objection were made by John Humphreys Uren and Elizabeth Uren both dated 29th April 1992. A further supplementary Declaration was made by Mr Uren on 13th October 1992.

WRITTEN REPRESENTATIONS

On 8th January 1992 The Open Spaces Society sent a written representation to the Commons Commissioners opposing the Objection. On 29th May 1992 after seeing copies of the two Statutory Declarations dated 29th April 1992 that Society wrote to the Commons Commissioners that it wished to maintain its opposition to the removal of the Objection land from the Register. On 15th June 1992 that Society wrote to the Commons Commissioners withdrawing its opposition.



On 12th August 1992 Penwith District Council wrote to the Commons Commissioners (further to previous correspondence) that the Council (which was the successor to St. Ives Borough Council, the original applicant for registration of the land as common land) would "leave the matter to be determined by the Commons Commissioners on the basis of the information available".

OBJECTOR'S CASE

In his Statutory Declaration of 13th October 1992 Mr Uren (who is 75 or more years of age) confirmed that the Objection land has been used as ancillary to Little Wheal Speed at all times since 5th August 1945.

DECISION WITHOUT A HEARING

On 15th October 1992 the Clerk of the Commons Commissioners gave notice pursuant to Regulation 8(1) of the Common Land (Rectification of Registers) Regulations 1990 that I proposed to make a Decision allowing the Objection without holding a hearing. No one has since that date requested me to hold a hearing.

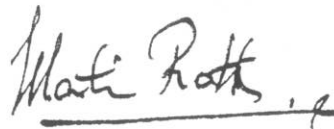
CONCLUSION

On this evidence, in the absence of any opposition, I consider that it is not necessary to hold a public hearing and that the requirements of Section 1(2) of the 1989 Act are satisfied in respect of the Objection land.

APPEAL

I am required by regulation 22(1) of the Common Land (Rectification of Registers) Regulations 1990 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 25th day of November 1992



Commons Commissioner